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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **MISTY RALYN FEALY** 24451 Joshua Avenue Boron, CA 93516 **Registered Nurse License No. 744471** Respondent.	Case No. 2013-821 **ACCUSATION**

Complainant alleges:

PARTIES

1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about February 9, 2009, the Board of Registered Nursing issued Registered Nurse License Number 744471 to Misty Ralyn Fealy (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct . . ."

COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DRUGS

8. Methadone, a synthetic opiate, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(14) and a dangerous drug according to Business and Professions Code section 4022. It is used to treat drug addiction.

9. Fluoxetine HCL (Prozac) is a selective serotonin reuptake inhibitor and is categorized as a dangerous drug pursuant to section 4022 of the Code. It is used to treat depression.

10. Losartan (Cozaar) is an angiotensin II receptor antagonist. It is categorized as a dangerous drug pursuant to Business and Professions Code section 4022 and is used to treat high blood pressure (hypertension).

11. Divalproex TBEC (Depakote) is categorized as a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat seizure disorders.

12. Levetiracetam (Keppra) is categorized as a dangerous drug pursuant to Business and Professions Code section 4022. It is used to treat seizure disorders.

FACTUAL SUMMARY

13. On or about May 22, 2010, patient GL, an 83-year-old female, was admitted to the intensive care unit of Antelope Valley Hospital, Lancaster, California (AVH), with a diagnosis of chronic obstructive pulmonary disease, congestive heart failure, clostridium difficile colitis, pneumonia and renal failure. Patient GL was kept in the intensive care unit for three days. On or about May 25, 2010, patient GL was transferred to the telemetry unit because her condition had improved.

14. On May 25, 2010, AVH's pharmacy mistakenly inputted medications that had not been ordered into patient GL's Medication Administration Record (MAR), specifically, Methadone, Fluoxetine (Prozac), Losartan (Cozaar), Divalproex TBEC (Depakote) and Levetiracetam (Keppra). MARs are issued by the pharmacy in the evening to be used by the hospital's nurses to care for their patients the next day.

15. It is the policy of the AVH that the night shift nurse assigned to a patient is required to verify the new Medication Administration Record (MAR) for that patient to prevent medication errors, as follows:

a. If a new drug is listed, the nurse reviews the physician order to confirm if the order was written for the medication.

b. If a drug is stopped, the nurse reviews the physician order confirming that a stop order was written for the medication.

c. If an order cannot be found in the patient's chart, the nurse calls the pharmacy to verify and locate the order. If an order cannot be found at the pharmacy, the nurse calls the physician to verify the medication order.

d. After steps 1, 2 and 3 are completed, the nurse initials on the left upper side of the form, in a box called MAR verified.

16. On May 25, 2010, while on duty as a registered nurse in AVH's telemetry unit during the night shift (1900 to 0700 hours), Respondent was assigned to care for patient GL, but failed to verify patient GL's MAR.

17. In the morning of May 26, 2010, the day nurse administered to patient GL the medications that were erroneously listed on the MAR that were left uncorrected/unverified by Respondent, except the day nurse did not administer the Methadone. After the wrong medications were administered, patient GL's condition deteriorated, and she was transferred back to the ICU, where she was declared brain dead and died on May 28, 2010, at 1300.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

18. Respondent is subject to disciplinary action under section 2761, subdivision (a), in that while on duty as a registered nurse at AVH, Respondent committed unprofessional conduct by failing to verify patient GL's Medication Administration Record in violation of hospital policy. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 13 through 17, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 744471, issued to Misty Ralyn Fealy;

2. Ordering Misty Ralyn Fealy to pay the Board's the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: March 26, 2013

for LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

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